

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Criminal Action
	)	No. 09-10017-GAO
	)	
TAREK MEHANNA,	)	
	)	
Defendant.	)	
	)	

BEFORE THE HONORABLE GEORGE A. O'TOOLE, JR.  
UNITED STATES DISTRICT JUDGE

DAY THIRTY-SIX  
JURY TRIAL

John J. Moakley United States Courthouse  
Courtroom No. 9  
One Courthouse Way  
Boston, Massachusetts 02210  
Monday, December 19, 2011  
9:11 a.m.

Marcia G. Patrisso, RMR, CRR  
Official Court Reporter  
John J. Moakley U.S. Courthouse  
One Courthouse Way, Room 3510  
Boston, Massachusetts 02210  
(617) 737-8728

Mechanical Steno - Computer-Aided Transcript

## 1 APPEARANCES:

2 OFFICE OF THE UNITED STATES ATTORNEY

By: Alope Chakravarty, Assistant U.S. Attorney

3 John Joseph Moakley Federal Courthouse

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4 Boston, Massachusetts 02210

- and -

5 UNITED STATES DEPARTMENT OF JUSTICE

By: Jeffrey D. Groharing, Trial Attorney

6 National Security Division

950 Pennsylvania Avenue, NW

7 Washington, D.C. 20530

On Behalf of the Government

8 CARNEY &amp; BASSIL

9 By: J.W. Carney, Jr., Esq.

Janice Bassil, Esq.

10 John E. Oh, Esq.

20 Park Plaza

11 Suite 1405

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12 - and -

LAW OFFICE OF SEJAL H. PATEL, LLC

13 By: Sejal H. Patel, Esq.

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14 Suite 800

Boston, Massachusetts 02108

15 On Behalf of the Defendant

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1 (The following proceedings were held in open court  
2 before the Honorable George A. O'Toole, Jr., United States  
3 District Judge, United States District Court, District of  
4 Massachusetts, at the John J. Moakley United States Courthouse,  
5 One Courthouse Way, Boston, Massachusetts, on December 19,  
6 2011.

7 The defendant, Tarek Mehanna, is present with counsel.  
8 Assistant U.S. Attorney Aloke Chakravarty is present, along  
9 with Jeffrey D. Groharing, Trial Attorney, U.S. Department of  
10 Justice, National Security Division.)

11 THE CLERK: All rise.

12 (The Court enters the courtroom at 9:11 a.m.)

13 THE CLERK: Please be seated.

14 THE COURT: Before we bring the jurors out, we do have  
15 the question they sent in at the end of the day on Friday;  
16 again, for the record, "May we get testimonies from individual  
17 witnesses?"

18 I don't know whether that means all of it or they have  
19 some in mind and so on. I guess my question for you is: Does  
00:01 20 anybody want to argue in the affirmative?

21 MR. CARNEY: No.

22 MS. BASSIL: No.

23 MR. CARNEY: I think it would be a dangerous road to  
24 go down, your Honor.

25 MR. CHAKRAVARTY: And as predictive, I think the

1 government would argue in the affirmative. We understand this  
2 is -- within contours -- specific witnesses. It seems that  
3 what we have in this case as opposed to the typical case is a  
4 daily transcript that we have in a very extensive trial where  
5 there are complicated witnesses. We presume they're going to  
6 be asking for civilian witnesses, not readers or other things  
7 for which they have the original evidence.

8 I quickly looked at what the First Circuit has said  
9 about this, and the *Akitoye* case from back in '91 appears to be  
00:02 10 the seminal case, and it says it's in your discretion but there  
11 are factors to consider: The complexity is one of them; the  
12 narrowness of which testimonies they're seeking is another.  
13 Reading is a possibility, although that seems tedious,  
14 especially when they will have other transcripts.

15 I'm not suggesting that we promise them that they will  
16 get every transcript that they ask for, but if there's a narrow  
17 request for a specific transcript, then it seems to me to make  
18 sense. I think we all recognize how good the daily transcripts  
19 have been. And as we've prepared for trial, we've used those  
00:02 20 effectively.

21 There are sidebars that are within those, which  
22 presumably, either the parties or Ms. Patrisso or Ms. Dahlstrom  
23 could go through. I don't know what the logistics would be. I  
24 don't know if there's an automated way to excise those. But it  
25 seems to me it's something helpful to them. Their memory

1 controls, but if we have something that can assist their memory  
2 that is part of the record, then the government suggests that  
3 your Honor should let them get it.

4 THE COURT: Okay. I don't think so. Certainly not to  
5 a blanket -- well, a broad request anyway, which is all we  
6 have. But I don't think it's a good idea. First of all, we  
7 did allow them to take notes to help them recall, and I think  
8 that to give them transcripts would, I think, distort the way  
9 they should be deliberating, which is their collective  
00:03 10 recollections of the testimony aided by their notes rather than  
11 parsing texts. They've got enough texts to parse from the  
12 exhibits.

13 And there is the separate problem of having to edit  
14 each day to take out things they should see. And I think  
15 that's just a major burden. The transcripts, as they have been  
16 prepared, of course, include the whole proceedings, which  
17 includes those parts that the jury were excluded from, and so  
18 we'd have to go day by day and comb through them to do that.  
19 And I think since they have, first, been, to my observation, a  
00:04 20 pretty attentive jury anyway; but, second, have their own  
21 notes, I think for now that's sufficient.

22 Okay. So we'll answer the question that way.

23 We'll call them in -- and I think they're all here --  
24 and we'll just get them started.

25 (Pause.)

1 THE COURT: Just for your information, the alternates  
2 have returned to the courthouse. We told them to be, like you,  
3 on 15-minute notice. They can go off and do things as long as  
4 they can get back here if we need them, so...

5 MR. CARNEY: Your Honor, do they have your written  
6 instructions by now?

7 THE COURT: I believe they do, yes.

8 MR. CARNEY: Okay.

9 MR. CHAKRAVARTY: Do they have written instructions or  
00:05 10 the transcript of --

11 THE COURT: Transcript. I think that's what he meant.  
12 Transcript of the two -- because they were two separate  
13 reporters, they get two separate volumes. I believe they have  
14 them both.

15 THE REPORTER: They've been condensed.

16 THE COURT: Oh, they have one volume that has them  
17 both? All right.

18 THE CLERK: All rise for the jury.

19 (The jury enters the courtroom at 9:16 a.m.)

00:06 20 THE CLERK: Be seated.

21 THE COURT: Good morning, jurors.

22 THE JURORS: Good morning.

23 THE COURT: Let me look at you and see that all  
24 deliberating jurors have returned. And I'll state that for the  
25 record.

1 Have you all abided by my instruction to avoid any  
2 discussion of the case over the weekend? The jurors all  
3 indicate affirmatively.

4 Jurors, as we broke Friday you had sent a note in  
5 inquiring whether you could get the testimony of the individual  
6 witnesses. I assume you're referring to a transcript of the  
7 testimony.

8 The short answer is no. First of all, you have been a  
9 very attentive jury throughout, and we appreciate that, and  
00:07 10 you've also been able to take notes. And we ask you to rely on  
11 your impressions and your notes for whatever discussion you  
12 need of the testimony of the witnesses.

13 With that, we ask you now to resume your deliberations  
14 and let us know when you have reached unanimous verdicts with  
15 respect to the several counts of the indictment.

16 THE CLERK: All rise for the Court and the jury. The  
17 Court will be in recess.

18 (The jury exits the courtroom at 9:18 a.m.)

19 THE COURT: May I see defense counsel on an ex parte  
00:08 20 application?

21 (The Court exits the courtroom and there is a recess  
22 at 9:18 a.m.)

23 (After recess:)

24 THE CLERK: All rise for the Court and the jury.

25 (The Court and jury enter the courtroom at 4:40 p.m.)

1 THE CLERK: Please be seated.

2 THE COURT: Jurors, we appreciate your hard work.  
3 We'll call it quits for the day. We'll follow the same  
4 procedure: all assemble one by one tomorrow as usual, and when  
5 everybody is here, we'll call you into the courtroom and again  
6 record that you're here and ready to resume your deliberations.

7 And, again, I would remind you to have no discussion  
8 of the matter at all until you're back together.

9 So have a pleasant evening and we'll see you tomorrow  
07:30 10 morning.

11 THE CLERK: All rise for the Court and jury. The  
12 Court will be in recess.

13 (The Court and jury exit the courtroom and the  
14 proceedings adjourned at 4:45 p.m.)  
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## C E R T I F I C A T E

I, Marcia G. Patrisso, RMR, CRR, Official Reporter of the United States District Court, do hereby certify that the foregoing transcript constitutes, to the best of my skill and ability, a true and accurate transcription of my stenotype notes taken in the matter of Criminal Action No. 09-10017-GAO-1, United States of America v. Tarek Mehanna.

/s/ Marcia G. Patrisso  
MARCIA G. PATRISSE, RMR, CRR  
Official Court Reporter

Date: December 19, 2011